

No. 11708

United States
Circuit Court of Appeals
For the Ninth Circuit.

UNITED STATES OF AMERICA,
Appellant,

vs.

FRANCIS C. BOWDEN, JOHN E. HOEK-
ZEMA, EDWARD G. BARBER, L. MCGEE,
CHRIS POULSEN, FRED W. MAYER,
DR. F. N. (Doc) DORSEY, ROBERT (Bob)
BAKER and ANTON ANDERSON,
Appellees.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Territory of Alaska,
Third Division.

FILED
OCT 19 1947
PAUL P. O'BRIEN,

CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD

RAYMOND E. PLUMMER,
United States Attorney,
Anchorage, Alaska,
Attorney for United States of America,
Plaintiff and Appellant.

HAROLD J. BUTCHER,
Attorney at Law,
Anchorage, Alaska,
Associate Attorney for United States
of America.

ALMER J. PETERSON,
Attorney at Law,
Anchorage, Alaska,
Associate Attorney for United States
of America.

E. L. ARNELL,
Attorney at Law,
Anchorage, Alaska,
Attorney for Defendants and
Appellees.

In the District Court for the Territory of Alaska,
Third Division

No. A-4492

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANCIS C. BOWDEN, JOHN E. HOEKZEMA,
EDWARD G. BARBER, L. McGEE, CHRIS
POULSEN, FRED W. MAYER, DR. F. N.
(DOC) DORSEY, ROBERT (BOB) BAKER,
and ANTON ANDERSON,

Defendants.

COMPLAINT

Comes now the United States of America, by and through Raymond E. Plummer, United States Attorney for the Third Division of the Territory of Alaska and complains of the above named defendants and for a cause of action alleges:

I.

That this case is one of public interest; that there is good reason to believe that a cause of action exists against the above named defendants that can be proven; and that this action is brought in the name of the United States in accordance with and pursuant to the provisions of Chapter 103, Compiled Laws of Alaska 1933.

II.

That the City known as Anchorage, Alaska, is an incorporated city of the first class, pursuant to the laws of the Territory of Alaska; and is situated in the Third Division, Territory of Alaska.

III.

That previous to February 23, 1921, and up to the present time, the City of Anchorage, was a duly and regularly incorporated municipality pursuant to the laws of the Territory of Alaska; and as such an incorporated municipality did hold a general election on April 1, 1947 for the purpose of electing a Mayor; three members for a two-year term to the common council; two members for a period of one year to the common council; one member to the public utilities board for a period of three years; one member to the Anchorage Public School Board for a period of one year; and one member for a period of three years to said school board; and accordingly such general municipal election was held within the City limits of said City of Anchorage, on April 1, 1947, polls being open from 8:00 a.m. to 7:00 p.m. in the respective election precincts.

IV.

That registration of voters was had in connection with said general municipal election in accordance with ordinance No. 51 of the City of Anchorage, entitled "An Ordinance for the Registration of the Legal Electors of the City of Anchorage, in the Territory of Alaska," said ordinance having been

duly and regularly passed and approved by the Common Council of the City of Anchorage on the 17th day of September, 1924.

V.

That the City of Anchorage, through its duly authorized and acting officials pursuant to said ordinance No. 51 referred to above, caused a poll book register to be kept open for the registration of all legal voters residing in the City of Anchorage; and that such a book was made available to all legal residents and voters of Anchorage, Alaska, as provided in said ordinance; and that the close of said day of registration was on the 29th day of March, 1947, at 5:00 p.m. at the City Hall of said City of Anchorage.

VI.

That as a result of such registration as provided by Ordinance No. 51 of the City of Anchorage, there were 1262 persons who registered for said general municipal election to be held on April 1, 1947.

VII.

That on the general municipal election held April 1, 1947, in the City of Anchorage, there were a total of 1738 ballots cast, out of which 1738 ballots cast, there were 653 persons who voted that were not legally registered in accordance with Ordinance No. 51 and who had their ballots sworn in; that therefore there were only 1085 ballots cast by persons who were legally entitled to vote by having complied with the provisions of Ordinance No. 51.

VIII.

That by reason of the said 653 illegal ballots cast, amounting to approximately 60% of the total number of legal votes cast in said election, that said election and all proceedings in connection therewith are invalid and void.

IX.

That on the 7th day of April, 1947, at and within the City of Anchorage, and within the jurisdiction of this Court, the defendant Francis C. Bowden, did unlawfully usurp and intrude himself into the said office of Mayor of said City of Anchorage; the defendants John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulson and Fred W. Mayer, did then and there unlawfully usurp and intrude themselves into the said offices of the Common Council of the City of Anchorage; the defendants Dr. F. N. (Doc) Dorsey and Robert (Bob) Baker did then and there unlawfully usurp and intrude themselves into the offices of members of the Anchorage Public School Board; and defendant Anton Anderson did then and there unlawfully usurp and intrude himself into the office of a member of the Utilities Board of the City of Anchorage.

X.

That each and every of said defendants from then on have continued unlawfully to hold and exercise the said office respectively so as aforesaid usurped by them respectively, the said offices then and there being public offices under and by virtue

of the laws of said City and the Territory of Alaska; the said defendants from the 7th day of April, 1947, to the present time having unlawfully usurped the city government of said city; and that said defendants from the date last aforesaid to the present time, having respectively continued, and still continue, unlawfully to hold and exercise the said offices so as aforesaid respectively unlawfully intruded into by them; and the plaintiff further shows that no other person or persons is or are by law entitled to hold or exercise any of said offices.

Wherefore, the plaintiff prays judgment:

- (1) For an order of this court requiring each and every of the above named defendants to show by what right they claim title to the respective offices now unlawfully usurped, held and exercised by them and further, to show cause, if any there be, why them and each of them should not be ousted forthwith from said respective offices;
- (2) That the said defendants and each of them be ousted from said offices so by them respectively, unlawfully held and occupied;
- (3) That the purported general municipal election of the City of Anchorage held on April 1, 1947 be declared illegal, invalid and void;
- (4) For costs of suit; and,
- (5) For such other and further relief as to the Court seems just and proper.

/s/ RAYMOND E. PLUMMER,
United States Attorney.

United States of America,
Territory of Alaska—ss.

Raymond E. Plummer, being first duly sworn upon oath deposes and says: That he is the United States Attorney for the Territory of Alaska, Third Division; that he has read the said complaint and knows the contents thereof and that the same is true as he verily believes.

/s/ RAYMOND E. PLUMMER.

Subscribed and sworn to before me this 8th day of April, 1947.

/s/ GERTRUDE HANSEN,
Deputy Clerk, District Court.

I hereby certify that the foregoing is a true and correct copy of the original complaint filed in the above entitled court and cause.

/s/ RAYMOND E. PLUMMER,
United States Attorney.

[Endorsed]: Filed April 8, 1947.

ORDINANCE No. 51

An Ordinance for the Registration of the Legal Electors of the City of Anchorage, in the Territory of Alaska

Be It Ordained by the Common Council of the City of Anchorage, in the Territory of Alaska:

Section 1. That there shall be a registration of the voters in the City of Anchorage annually prior

to the general municipal election, and no persons shall be entitled to vote at any municipal election who is not registered according to the provisions of this Ordinance: the registration shall be prima facie evidence of the right of any person registered to vote, but said person may be challenged and required to establish a right to vote in the manner provided in Ordinance No. 17, entitled "An Ordinance to Provide for General and Special Elections in the City of Anchorage, Territory of Alaska"; no person shall be registered unless he or she appear in person before the registration officer at the office of such registrar during his usual office hours and apply to be registered, and give his name and particular place of residence, and such place of residence shall be noted in the poll book of the registrar.

Book of Registration to Be Opened

Section 2. It shall be the duty of the Common Council of the City of Anchorage, upon the taking effect of this Ordinance, to procure for the registration of voters a poll book register; to open the same for the registration of voters at least sixty (60) days prior to the general municipal election and thirty (30) days prior to any special election, and to appoint a duly qualified elector of the City of Anchorage, who shall be the City Clerk, designated the registrar of the City of Anchorage.

Poll Book to Be Kept at Registration Office

Section 3. After such poll book register shall be opened, pursuant to the above section, it shall be

open at all times until the closing of the same for any election, and shall be kept at the office of such registrar; it shall be the duty of such registration officer to register all citizens of the City of Anchorage, who are qualified under the laws of the Territory of Alaska, to vote at any municipal election in said City: before entering upon his duties as registration officer, such registrar shall subscribe to an oath before an officer qualified to administer the same that he will well, truly and accurately register all qualified electors of the City of Anchorage, who apply to him for registration, and no other, and that he will, when the registration book has been closed, deliver the same to the City Clerk, taking his receipt for the same; said registration officer shall have the power to administer all necessary oaths, to examine the applicant for registration, or any witness who may be offered in his behalf, in order to ascertain his right to be registered under the provisions of this ordinance; if the applicant for registration will be entitled to vote at the next ensuing election under the laws of the Territory of Alaska, he will be entitled to registration; otherwise he will not be registered; appeals from the decision of the registration officer may be taken to the Common Council, and from the decision of the Common Council to the District Court for the Territory of Alaska, Third Division; it will be the duty of the registration officer upon the closing of the poll or registration book to certify to the accuracy of such poll list or registration book, before delivering the same to the City Clerk.

Entry

Section 4. The registration shall be in the following form in said book: Date of registration, name, check line, age, occupation, residence, signature of Elector; the names of the persons registered shall be entered in alphabetical order and an entry shall be made opposite the name of each person to correspond to each of the heads contained in the head of the registration list.

Certificate of Registration

Section 5. It shall be the duty of the registration officer to give to each citizen registered, according to the provisions of this Ordinance, certificate of registration which shall be substantially in the following form:

United States of America

Territory of Alaska

City of Anchorage19....

This is to certify that.....a citizen of the City of Anchorage, has this.....day of.....19.... been duly registered as a voter of the City of Anchorage and is entitled to vote at any election in said City, provided he continues a resident of said City, and provided further, that he is a qualified voter under the laws of the Territory of Alaska, now in force and statutes amendatory thereof.

Witness my hand this.....day of.....19....

City Registrar

Registration Officer to Publish Notice

Section 6. It shall be the duty of the registrar of said City, upon notice from the Common Council, to cause to be published in an official newspaper of the City of Anchorage, a notice notifying the citizens of the City of Anchorage, that said registration book is open, and also to publish in like manner a notice ten days prior to the closing of said registration book, stating the date of the closing of said book.

Registration Book Shall Be Closed

Section 7. The registration book shall be closed on Saturday, at 4:00 p.m. o'clock, prior to any municipal election; and nothing in this Ordinance shall be construed so as to require more than one annual registration of voters.

The poll book of the citizens entitled to vote shall be furnished the election board by the City Clerk.

Section 8. It shall be the duty of the City Clerk to furnish the Judges and Clerks of election with two poll books and two tally lists at least one day before election.

Passed by the Common Council of the City of Anchorage, this 17th day of September, 1924.

/s/ FRED J. SPACH,
City Clerk.

Approved this 17th day of September, 1924.

/s/ M. J. CONROY,
Mayor of the City of
Anchorage, Alaska.

I, Thomas E. Downes, Clerk of the City of Anchorage, Territory of Alaska, do hereby certify that the annexed and foregoing is a true and full copy of the original Ordinance No. 51 now remaining among the records of the said City of Anchorage in my office.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of the aforesaid City of Anchorage, Territory of Alaska, this 11 day of July, 1947.

THOMAS E. DOWNES,
Clerk, City of Anchorage.

By /s/ THOMAS E. REILLY,
Acting Clerk, City of
Anchorage.

[Endorsed]: Filed in the District Court, Territory of Alaska, Third Division, July 18, 1947. M. E. S. Brunelle, Clerk; by /s/ Gertrude Kellner, deputy.

[Title of District Court and Cause.]

ACKNOWLEDGMENT OF SERVICE

I, E. L. Arnell, hereby acknowledge receipt of copies of the Complaint, and Order Setting Time for Hearing on Order to Show Cause, in connection with the above entitled matter, all of which have been certified to by Raymond E. Plummer, United States Attorney to be true and correct copies of the originals now on file herein. I hereby certify that I represent the following named de-

endants and acknowledge receipt of said Complaint and Order on their behalf:

Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, Anton Anderson.

/s/ E. L. ARNELL,

Attorney for the Defendants.

[Endorsed]: Filed April 8, 1947.

[Title of District Court and Cause.]

ORDER SETTING TIME FOR HEARING ON
ORDER TO SHOW CAUSE

This matter coming on for hearing on filing of the complaint herein and a motion by the plaintiff seeking the order of this Court setting time for a hearing on an order to show cause against the above named defendants, Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, as prayed for in the prayer of said complaint,

It Is Hereby Ordered That the said Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, be and they are hereby notified to be and appear in the above entitled court at Anchorage, Alaska, on the 15th day of April, 1947, at 10:00 a.m. on said date, then and there to show

by what right they claim title to the respective municipal offices set forth in said complaint and now unlawfully usurped, held and exercised by them; and further, to show cause, if any there be, why they and each of them should not be ousted forthwith from said respective municipal offices now unlawfully usurped, held and exercised by them.

And it is further ordered that the United States Marshal for the Third Division of the Territory of Alaska serve a copy of this order together with a copy of the complaint filed herein upon the said Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, by delivering to each of them copies thereof certified by Raymond E. Plummer, United States Attorney, to be true and correct copies of the originals now on file herein, and of his actions hereunder make return hereon.

Signed in open court in Anchorage, Alaska, this 8th day of April, 1947.

/s/ ANTHONY J. DIMOND,
District Judge.

I hereby certify that the foregoing is a true and correct copy of the original order for setting time for hearing on order to show cause entered in the above entitled court and cause.

/s/ RAYMOND E. PLUMMER,
United States Attorney.

[Endorsed]: Filed April 8, 1947.

In the District Court of the United States for the
Territory of Alaska, Third Division

No. A-4492

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANCIS C. BOWDEN, et al.,

Defendants.

SUMMONS

The President of the United States of America,
to the Above-Named Defendant, Greeting:

You Are Hereby Required to appear in the District Court for the Territory of Alaska, Third Division, within thirty days after the day of service of this summons upon you, and answer the complaint of the above-named plaintiff, a copy of which complaint is herewith delivered to you; and unless you so appear and answer, judgment will be entered against you ousting you from the respective municipal office now unlawfully held and occupied by you; declaring the purported general municipal election of the City of Anchorage held on April 1, 1947, to be illegal, invalid and void, for costs of suit, and will apply to the Court for the further relief demanded in said complaint.

Witness, the Hon. Anthony J. Dimond Judge of said Court, this 9th day of April in the year of our Lord one thousand nine hundred and forty-seven.

[Seal]

M. E. S. BRUNELLE,
Clerk.

By /s/ GERTRUDE HANSEN,
Deputy Clerk.

United States Marshal's Office,
Territory of Alaska, Third Division.

I Hereby Certify, that I received the within writ on the 9th day of April, 1947, and personally served the same on the 9th day of April, 1947, by delivery to and leaving with Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, said defendants named therein personally, at Anchorage Alaska, in said Division of said Territory, a copy thereof, together with a copy of the complaint, certified to by Raymond E. Plummer, United States Attorney, attached thereto.

Dated at Anchorage, Alaska, the 9th day of April, 1947.

JAMES H. PATTERSON,
U. S. Marshal.

By /s/ OSCAR OLSON,
Deputy.

Marshal's Fees: To Service, \$7.00.

[Endorsed]: Filed April 10, 1947.

[Title of District Court and Cause.]

MOTION TO QUASH

Comes now the above named defendants, individually, by their attorney, E. L. Arnell, and respectfully moves this court for an order quashing the order to show cause issued by this court on the 8th day of April, 1947, against said defendants, upon the ground that Ordinance No. 51, upon which said order is predicated, is unconstitutional and said order is null and void, and upon the further ground that the petition upon which said order is based does not state facts sufficient to constitute a cause of action.

/s/ E. L. ARNELL.

[Endorsed]: Filed April 15, 1947.

[Title of District Court and Cause.]

ORAL DECISION GRANTING MOTION
TO QUASH

Judge Kehoe: I am going to grant the motion to quash. No motion left to strike, so I need not act on that. You may draw such an order.

Mr. Arnell: Thank you, your Honor.

Mr. Plummer: If the Court please, may I interrogate the Court as to whether on the ground that the statute is unconstitutional?

Court: I think, in my opinion, it is based upon two grounds: First, the lack of power in the City to make such an ordinance on constitutional grounds;

Witness, the Hon. Anthony J. Dimond Judge of said Court, this 9th day of April in the year of our Lord one thousand nine hundred and forty-seven.

[Seal] M. E. S. BRUNELLE,
Clerk.

By /s/ GERTRUDE HANSEN,
Deputy Clerk.

United States Marshal's Office,
Territory of Alaska, Third Division.

I Hereby Certify, that I received the within writ on the 9th day of April, 1947, and personally served the same on the 9th day of April, 1947, by delivery to and leaving with Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, said defendants named therein personally, at Anchorage Alaska, in said Division of said Territory, a copy thereof, together with a copy of the complaint, certified to by Raymond E. Plummer, United States Attorney, attached thereto.

Dated at Anchorage, Alaska, the 9th day of April, 1947.

JAMES H. PATTERSON,
U. S. Marshal.

By /s/ OSCAR OLSON,
Deputy.

Marshal's Fees: To Service, \$7.00.

[Endorsed]: Filed April 10, 1947.

[Title of District Court and Cause.]

MOTION TO QUASH

Comes now the above named defendants, individually, by their attorney, E. L. Arnell, and respectfully moves this court for an order quashing the order to show cause issued by this court on the 8th day of April, 1947, against said defendants, upon the ground that Ordinance No. 51, upon which said order is predicated, is unconstitutional and said order is null and void, and upon the further ground that the petition upon which said order is based does not state facts sufficient to constitute a cause of action.

/s/ E. L. ARNELL.

[Endorsed]: Filed April 15, 1947.

[Title of District Court and Cause.]

ORAL DECISION GRANTING MOTION TO QUASH

Judge Kehoe: I am going to grant the motion to quash. No motion left to strike, so I need not act on that. You may draw such an order.

Mr. Arnell: Thank you, your Honor.

Mr. Plummer: If the Court please, may I interrogate the Court as to whether on the ground that the statute is unconstitutional?

Court: I think, in my opinion, it is based upon two grounds: First, the lack of power in the City to make such an ordinance on constitutional grounds;

and also I am impressed by the fact that there has been no repeal of Ordinance 17. It is still on the books and is referred to even in the later ordinance showing that the council considered it to be still on the books. Those are the two principal things that make me feel as I do. I decided so quickly because I think it should be decided quickly. It is a very important matter.

Mr. Plummer: That is true.

Court: And nothing will be gained by waiting.

Mr. Plummer: That is right.

[Endorsed]: Filed May 20, 1947.

MINUTE ORDER GRANTING MOTION TO QUASH

Now came the respective parties and the respective counsel as heretofore and the hearing on motion to show cause in cause No. A-4492, entitled United States of America, plaintiff, versus Francis C. Bowden, et al., defendants, was resumed.

Argument to the Court was had by Raymond E. Plummer, United States Attorney, for and in behalf of the Government, re defendants' motion to quash.

Argument to the Court was had by Edward L. Arnell, for and in behalf of the defendants.

Whereupon the Court, having heard the arguments of respective counsel and being fully and duly advised in the premises granted defendants' motion to quash and directed counsel to prepare

and submit written order in accordance with the oral decision given herein.

Entered Court Journal No. G 14, page No. 200,
April 16, 1947.

[Title of District Court and Cause.]

ORDER TO QUASH

This matter having come before the Court on the 15th day of April, 1947, upon defendants' motion for an Order to Quash, the Order for Show Cause issued by this Court on the 8th day of April, 1947, by which Order said defendants were required to be and appear before this Court on the 10th day of April, 1947, to show cause why said defendants should not be ousted from the respective offices to which said defendants had been elected at a general municipal election held on the 1st day of April, 1947, and it appearing from said Motion that the grounds upon which the defendant attacked the validity of said Order to Show Cause were that Ordinance No. 51 was unconstitutional and that the Order of this Court based upon an alleged violation thereof, was null and void and

Further, that the petition of the above named plaintiff did not state facts sufficient to constitute a cause of action and the Court having heard the arguments of E. L. Arnell in support of said Motion to Quash and the arguments of Raymond D.

Plummer, United States District Attorney in opposition to said Motion on the 15th day of April, 1947 and the Court thereupon having continued hearing upon the said Motion until 2:00 p.m. on the 16th day of April 1947, and at such time having heard additional arguments by counsel and the Court thereupon having considered the arguments of the respective counselors and the statutes, ordinances and authorities cited by each, and the Court being fully advised in the premises, now, therefore, it is

Ordered that the Order to Show Cause issued by this Court on the 8th day of April, 1947, be and the same hereby is quashed and annulled, and it is further

Ordered that the defendants be and they are hereby dismissed, and it is further

Ordered that the above entitled proceedings against the said defendants be and the same hereby is dismissed.

Made and ordered entered this 17th day of April, 1947.

/s/ JOSEPH W. KEHOE,
District Judge.

[Endorsed]: Filed April 17, 1947.

[Title of District Court and Cause.]

NOTICE OF APPEAL

To: The Clerk of the above-entitled Court; and to Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, and their attorney, Edward L. Arnell, Esquire.

Take notice that the plaintiff in the above entitled action hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the Order to Quash made and entered in said cause on the 17th day of April, 1947, by the District Court for the Territory of Alaska, Third Division, dismissing said cause in favor of the defendants and against the plaintiff, and from the whole of said Order to Quash so entered.

Dated this 15th day of July, 1947.

/s/ RAYMOND E. PLUMMER,
United States Attorney, Anchorage, Alaska,
Attorney for Plaintiff-Appellant.

Service of the copy of the above and foregoing Notice of Appeal is hereby acknowledged this 15th day of July, 1947.

/s/ E. L. ARNELL.

[Endorsed]: Filed July 15, 1947.

[Title of District Court and Cause.]

PETITION FOR APPEAL

Comes now the plaintiff, the United States of America, by Raymond E. Plummer, United States Attorney for the Third Division, Territory of Alaska, and feeling itself aggrieved by that certain final Order to Quash entered in the above entitled cause on the 17th day of April, 1947, wherein said cause was dismissed, prays an appeal therefrom, and from the whole of said order, to the United States Circuit Court of Appeals for the Ninth Circuit, the particulars wherein it considers said final order to quash to be erroneous are set forth in the assignment of errors which is filed herewith and to which reference is hereby made.

Wherefore, the premises considered, your petitioner prays that an appeal in its behalf, to the United States Circuit Court of Appeals for the Ninth Circuit for the correction of the errors complained of and herewith duly assigned, be allowed and granted, and that a transcript of the records, papers and documents upon which said final order was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, and petitioner prays a reversal of said final order.

Dated at Anchorage, Alaska, this 15th day of July, 1947.

/s/ RAYMOND E. PLUMMER,

United States Attorney, Anchorage, Alaska,
Attorney for Plaintiff-Appellant.

Service of copy of the above and foregoing Petition for Appeal is hereby acknowledged this 15th day of July, 1947.

/s/ E. L. ARNELL,
Attorney for Defendants.

[Endorsed]: Filed July 15, 1947.

[Title of District Court and Cause.]

ASSIGNMENT OF ERRORS

Comes now the plaintiff, the United States of America, by Raymond E. Plummer, United States Attorney for the Third Division, Territory of Alaska, and in connection with its petition for appeal files the following assignment of errors on which it will rely on its appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final Order to Quash entered in the above entitled Court and cause on the 17th day of April, 1947, dismissing said cause:

I.

The Court erred in dismissing said cause for the reason that said dismissal was contrary to law.

II.

The Court erred in making and ordering entered its Order to Quash on the 17th day of April, 1947, dismissing said cause for the reason that the same is contrary to law.

III.

The Court erred in ordering that the Order to Show Cause issued on the 8th day of April, 1947, be quashed and annulled for the reason that the same is contrary to law.

IV.

The Court erred in dismissing the defendants for the reason that the same is contrary to law.

V.

The Court erred in dismissing the proceedings for the reason that the same is contrary to law.

/s/ RAYMOND E. PLUMMER,
United States Attorney, Anchorage, Alaska,
Attorney for Plaintiff-Appellant.

Service of copy of the above and foregoing Assignment of Errors is hereby acknowledged this 15th day of July, 1947.

/s/ E. L. ARNELL,
Attorney for Defendants.

[Endorsed]: Filed July 15, 1947.

[Title of District Court and Cause.]

ORDER ALLOWING APPEAL

On this day came the United States of America, the plaintiff in the above entitled cause, and presented its Petition for Appeal and an Assignment of Errors accompanying the same, which petition,

upon consideration by the Court, is hereby allowed.

And, It Is Hereby Ordered by the Court that the appeal prayed for be, and the same is hereby allowed to the United States Circuit Court of Appeals for the Ninth Circuit from the final Order to Quash, and the whole thereof, made and entered in the above entitled Court and cause on the 17th day of April, 1947, dismissing said cause.

Done by the Court and ordered entered at Anchorage, Alaska, this 15th day of July, 1947.

/s/ ANTHONY J. DIMOND,

District Judge.

Service of copy of the above and foregoing Order Allowing Appeal is hereby acknowledged this 15th day of July, 1947.

/s/ E. L. ARNELL,

Attorneys for Defendants.

[Endorsed]: Filed July 16, 1947.

[Title of District Court and Cause.]

CITATION ON APPEAL

To the Defendants: Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker, and Anton Anderson, and to their attorney, Edward L. Arnell, Esquire:

You and each of you are hereby cited and admonished to be and appear at a session of the United States Circuit Court of Appeals for the Ninth Circuit to be held at the City of San Francisco, California, in said circuit, within forty (40) days from the date hereof, pursuant to an order allowing an appeal duly entered in the Clerk's Office in the District Court for the Territory of Alaska, Third Division, at Anchorage, Alaska, in that certain action wherein the United States of America is plaintiff and you are defendants, as above entitled, and wherein the said United States of America is appellant, to show cause, if any there be why the final order to quash, and the whole thereof, entered on the 17th day of April, 1947, ordering that said cause be dismissed, should not be reversed and corrected and why a speedy justice should not be done to appellant, the said United States of America.

Witness, the Honorable Anthony J. Dimond, Judge of the District Court for the Territory of Alaska, Third Division, and the seal of said Court hereunto affixed this 15th day of July, 1947.

/s/ ANTHONY J. DIMOND,

Judge of the District Court,
Territory of Alaska.

Attest:

/s/ LOUISE ANNABEL,

Deputy Clerk of said Court.

Service of copy of the above and foregoing Citation of Appeal is hereby acknowledged this 15th day of July, 1947.

/s/ E. L. ARNELL,
Attorney for Defendants.

[Endorsed]: Filed July 16, 1947.

[Title of District Court and Cause.]

PRAECIPE

To the Clerk of the District Court, Territory of
Alaska, Third Division:

You will please make, certify and transmit to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, a true copy of all of the following indicated portions of the record in the above entitled cause, as the transcript to be used on the appeal of the plaintiff, The United States of America, from the final order to quash dismissing said cause, made and entered in said cause on the 17th day of April, 1947, to wit:

1. Complaint.
2. Ordinance No. 51. An Ordinance for the Registration of the Legal Electors of the City of Anchorage, in the Territory of Alaska.
3. Acknowledgment of Service.
4. Order Setting Time for Hearing on Order to Show Cause.

5. Summons.
6. Motion to Quash.
7. Transcript of oral decision of Honorable Joseph W. Kehoe granting motion to quash.
8. Minute Order granting motion to quash.
9. Order to Quash.
10. Notice of Appeal.
11. Petition for Appeal.
12. Assignment of Errors.
13. Order Allowing Appeal.
14. Citation of Appeal.
15. This Praecipe.

Dated at Anchorage, Alaska, this 23rd day of July, 1947.

/s/ RAYMOND E. PLUMMER,
United States Attorney, Anchorage, Alaska,
Attorney for Plaintiff-Appellant.

Service acknowledged by receipt of a copy of the above and foregoing Praecipe this 23rd day of July, 1947.

/s/ E. L. ARNELL,
Attorney for Defendants.

[Endorsed]: Filed July 23, 1947.

ORDINANCE No. 17

An Ordinance to Provide for General and Special Elections in the City of Anchorage, Territory of Alaska

Be it Ordained by the Common Council of the City of Anchorage:

Sec. 1. There shall be a general municipal election held in the City of Anchorage, Territory of Alaska, annually on the first Tuesday of April of each year; said election shall begin at 8 o'clock a.m. and continue without interruption until 7 o'clock, p.m. of the same day.

Sec. 2. Special elections may be called and held at any time to fill vacancies in the Common Council or School Board; provided that not less than ten days notice of the time and place of holding same, and the officer or officers to be elected, be given by the City Clerk of the City of Anchorage, and that such election be held in accordance with the provisions of ordinance and the laws governing elections. Every officer elected at a special election to fill a vacancy in the Common Council or the School Board shall hold office for the unexpired term of his or her predecessor, and until his or her successor is elected and qualified.

Sec. 3. There shall be elected at the next regular election of the City of Anchorage, a Common Council consisting of seven councilmen, each for the term of one year; there shall also be elected at each annual election thereafter one member of the School Board of Anchorage School District, as follows: in 1921 a director for the term of three years; in 1922 a Clerk for the term of three years; at the election in 1923 a Treasurer for the term of three years, and the same for each succeeding election

thereafter; all members of the school board elected at an annual election for a full term shall hold office for three years, and until his successor is elected and qualified, unless sooner removed as provided by law or ordinance.

Sec. 4. The qualifications of a voter for councilman or member of the School Board shall be as follows: Such voter shall be a citizen of the United States, over the age of twenty-one years, who has resided continuously one year next preceding the election in the Territory of Alaska, and six months next preceding the election in the limits of the City of Anchorage. All persons possessing the qualifications of voters are eligible to hold office in the Common Council or the School Board.

Sec. 5. It shall be the duty of the City Clerk at least twenty days before any general election and ten days before any special election to cause to be published at least once in a newspaper of general circulation, published at Anchorage, Alaska, or to post in at least three conspicuous public places in said city, a notice of such election, which notice shall state the time and place of holding such election, the hour of opening and closing the polls, the qualifications of voters at such election, and the offices to be filled at such election.

Sec. 6. It shall be the duty of the Common Council at their regular meeting before any general municipal election, annually, to appoint for said general election three judges who shall be qualified voters of the City of Anchorage, Alaska,

and who shall constitute a board of judges for such election, and in like manner to appoint a like board of judges for any special election. The Council shall, at the same time, appoint two suitable persons, possessing the qualifications of electors, to act as clerks of election. If any judge or clerk of election so appointed shall fail or refuse to serve or attend at the time and place appointed, the voters present shall elect another judge or clerk who is a qualified voter, to serve in his place.

Sec. 7. Before entering upon the discharge of their duties, said judges and clerks shall each take and subscribe to the following oath:

“I....., do solemnly swear (or affirm) that I will honestly and faithfully perform the duties of judge (or Clerk) of election according to law; that I will assiduously endeavor to prevent, fraud, deceit or abuse in conducting the election, to the best of my ability, So Help Me God.”

Said Oath may be administered by an officer authorized by law to administer oaths in the Territory of Alaska, and the oaths so administered shall be filed with the City Clerk. Any member of the election board may administer and certify oaths required to be administered during the holding of the election.

Sec. 8. Thirty minutes before the closing of the polls on the day of election one of the judges shall proclaim the time remaining before the polls shall close, and when the polls are closed the fact must

be announced aloud, and after such proclamation no ballots shall be received. Before receiving any ballots the election board must in the presence of any persons assembled at the polling place, open and exhibit to those present and close the ballot boxes, and thereafter they must not be removed from the polling place or presence of the bystanders until all ballots are counted, nor must they be opened again until the polls are finally closed.

Sec. 9. That in all elections to be hereafter held in the City of Anchorage, Alaska, the printing and distributing of ballots and instructions to voters shall be paid for by said City.

Sec. 10. Nomination of candidates for any office to be voted for shall be by petition for each candidate, signed by not less than twenty legal qualified voters of the City. Such petition shall be plainly written, and shall state the name of the candidate and the office for which he is nominated. Such petitions shall be filed in the office of the City Clerk at least ten days before the day of election. Any objection to the sufficiency of a petition shall be determined by the Common Council at once upon the same being made, and upon notice to the candidate and the objector or objectors.

Sec. 11. The names of all candidates to be voted for shall be printed on one ballot, including both candidates for the Common Council and the School Board. Preceding the list of candidates for each office there shall be placed the words: "Vote for not more than seven" or "Vote for not more than one"

or such other number as are to be elected to the office in question, as the case may be.

Sec. 12. On the back of outside of the ballot, so as to be clearly visible when folded, shall be printed the words "Official Ballot," date of the election, and a facsimile of *the* Clerk who has caused them to be printed. The ballots shall be of plain white paper, through which printing or writing cannot be read. The names of Candidates shall be printed in capital letters, not less than one-eighth of an inch or more than one-fourth of an inch in height, and at the beginning of each line in which the name of a candidate is printed, a square shall be printed, the sides of which shall not be less than one-fourth of an inch in length.

Sec. 13. For all elections to which this ordinance applies the City Clerk shall have charge of the printing of the ballots for all general and special elections and shall furnish them to the judges of election. Ballots shall be printed and in the possession of the officer charged with distribution of same at least one day before election and subject to the inspection of candidates and their agents; if any mistake be discovered they shall be rectified without delay. The officer charged with the printing shall deliver to the judges of election not less than twelve hours before the opening of the polls, sufficient ballots for use in the election. Such ballots shall be placed in separate sealed packages with marks on the outside, clearly designating the number of ballots enclosed, and a receipt

therefor taken from the judges of election to whom they are delivered, which receipt shall be preserved in the records of the City.

Sec. 14. The City Clerk shall publish full instructions for the guidance of voters as to how to obtain the ballots, as to the manner of marking them and the method of obtaining information, and as to procuring new ballots in place of any destroyed or spoiled, and he shall cause same to be printed in large clear type on instruction cards, and said Clerk shall furnish to the judges of election a sufficient number of such cards of instruction to enable the judges of election to comply with the provisions of this ordinance.

Sec. 15. The City Clerk shall also have printed a number of specimen ballots on colored paper, and delivered same to the judges of election in order to enable judges to comply with the provisions of this ordinance and the election laws.

Sec. 16. The judges of election shall have charge of the official ballots and furnish them to the voters as hereinafter set forth.

Sec. 17. It shall be the duty of the City Clerk to cause to be erected in the polling place or places designated by the Common Council, a sufficient number of booths, which shall be supplied with such supplies and conveniences, **including shelves, pens,** pen-holders, blotters and pencils as will enable the voter to mark his ballot for voting and in which the voter may prepare his ballot screened from observation. The ballot boxes shall be within plain

view of the election officers and voters and persons within the polling place, outside of the booths. Each of said booths shall have three sides enclosed, and the side in front to be enclosed with a curtain. The expense of providing booths, and other things required to be furnished by this ordinance shall be paid in the same manner as other election expenses.

Sec. 18. Any person desiring to vote shall give his name to the judges of election, and his residence if required, and sign the poll book. One of the judges shall give the voter one and only one ballot, on the back of which the judge in charge shall indorse his initials in such a manner that they may be seen when the ballot is properly folded, and the voter's name shall be noted on the poll books. If any person desiring to vote shall be challenged he shall not receive a ballot until he shall have established his right to vote in the manner provided by law; and if he be challenged after he has received his ballot he shall not be allowed to vote until he shall have established his right to do so in the same manner.

Sec. 19. Upon receipt of the ballot the voter shall forthwith retire alone to the voting booth provided, and shall prepare his or her ballot, by marking in the appropriate margin or place opposite the name of the candidate of his or her choice; providing, however, that such voter shall not vote for more than the proper number of candidates for each office to be elected thereto. Before leaving

the voting booth the voter shall fold his ballot in such a manner as to conceal the marks thereon. He shall then hand the same to one of the judges of election who shall examine the initials, and if found correct shall deposit in the ballot box.

He shall mark his ballot without undue delay. No person shall take any ballots from the polling places before the closing of the polls. Any voter who shall through accident or mistake mutilate or spoil the ballot given him, shall upon returning same to the judges receive another in place thereof. Any voter who shall swear upon oath, to be administered by one of the judges of election, that he cannot read the English language, or that by reason of a physical disability he is unable to mark his ballot, shall upon request be assisted in marking same by two of the election judges, to be agreed upon between the judges themselves; such judges nor either of them shall not divulge any information derived from so doing. The judges of election shall cause to be entered upon the poll list after the name of a voter receiving assistance, a memorandum of such fact. Intoxication shall not be regarded as a physical disability, and no intoxicated person shall receive assistance in marking his ballot.

Sec. 20. If the voter shall mark more names than there are persons to be elected to any office, or if for any reason it is impossible to tell the voter's choice for any office to be filled, the ballot shall not be counted, for such office. No ballot without the official endorsement thereon shall be

permitted to be deposited in the ballot box, and none but ballots complying with the provisions of this ordinance shall be counted. Ballots not counted shall be marked "Defective" on the back thereof, and ballots to which objection has been made shall be marked "Objected to" on the back thereof, and signed by the judges, stating why the ballot was not counted, and all defective ballots shall be enclosed in an envelope and so marked as to distinguish the contents. All ballots not voted, and all ballots spoiled by voters shall be returned by the judges of election to the City Clerk, and receipt taken therefor and same shall be kept for six months; such clerk shall keep a record of the number of ballots delivered at the various polling places, the names of persons to whom delivered, the time when delivered, and he shall also enter upon such record the number and character of the ballots returned, with the time when, and by whom returned.

Sec. 21. No ballot shall be rejected for the reason that purpose of same is obscure, either as to the person voted for or the designation of office if the judge can determine from an inspection of the ballot as to the person intended to be voted for, and the office designated.

Sec. 22. The Common Council shall, at least twenty days before any annual municipal election and at least ten days before any special election designate by resolution the place for holding such election.

Sec. 23. It shall be the duty of the members of the election board, or any voter present to challenge any person offering to vote when he shall know or suspect not to be qualified to vote. If a person offering to vote is challenged as not qualified, the judges of election, or one of them, shall require the person so challenged to make the following affidavit, which shall be sworn to on oath before one of said judges; any one of whom shall be and he is hereby empowered to administer the oath therefor:

“I do solemnly swear (or affirm) that I am qualified and entitled to vote at this Municipal Election. in the City of Anchorage, Alaska, held this day of April, 19.... That I am over the age of twenty-one years, to wit of the age of years. That I am a citizen of the United States. That I have resided continuously for one year next preceding this day of April, 19.... in the Territory of Alaska, and for six months next preceding said date in the City of Anchorage, Territory of Alaska.”

.....
 Subscribed and sworn to before me this
 day of April, 19....

If the voter signs and takes oath of the foregoing statement he shall vote, otherwise he shall be rejected.

Sec. 36. As soon as the polls are finally closed the judges shall open the ballot boxes containing the vote cast, and when the same have been counted and result ascertained the same shall be checked with the poll list, and all ballots replaced to be counted again as hereinafter provided for. In no case shall a ballot box be removed from the room in which any election shall be held, until all the ballots have been finally counted. The counting of ballots shall in all cases be public. The ballots, after having been counted and checked as herein provided, shall be taken out carefully, one by one by the judges of election, who shall open them, and read aloud the name of each person voted for, provided that no more ballots be drawn from the box than shall tally exactly with the poll list.

Sec. 37. The judges shall write down each office to be filled and the name of each person to be voted for for such office, and they shall keep the number of votes by tallies as they are read aloud. The counting of votes shall be counted without interruption or adjournment until all are counted.

Sec. 38. It shall be the duty of one of the judges to string the ballots at the time of the counting, and after all the ballots have been counted and strung, it shall be the duty of the judges to place them in a sealed envelope, and to write thereon:

“Ballots of Municipal Election of the City of Anchorage, held this day of April, 19.....”

and to deliver said sealed envelope to the City Clerk, who shall keep the same unopened for one year, to be used only as evidence in case of contest when called for; at the end of which time it shall be the duty of the Common Council of the City of Anchorage to burn said ballots in the presence of two other city officials as witnesses, thereto, and make and keep a memorandum in writing of these facts.

Sec. 39. As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto stating the number of votes each person voted for has received, and designating the office for which he was voted. Said certificate shall be signed by the judges of election, and the same, with the poll lists, tallies or tally papers, oaths of judges and oaths of voters and other papers, shall be sealed in an envelope by the judges and endorsed "Election Returns" and be delivered to the City Clerk.

Sec. 40. The Common Council shall meet at their usual place of meeting on the first Wednesday after each election to canvass the returns; they must proceed then and there to canvass said returns, but may for good cause postpone such canvass from day to day, not exceeding three postponements. The canvass must be made in public, and by opening the returns and estimating the vote for each person voted for, and for and against each proposition voted for at such election, and declare the result thereof.

The City Clerk must, as soon as the result is declared, enter upon the records of the Common Council a statement of such results, which statement must show:

1. The whole number of votes cast in the City.
2. The names of the persons voted for and the propositions voted upon.
3. The office to fill which each person was voted for.
4. The number of votes given to each of such persons and for and against each of such propositions.

The Common Council shall declare elected the seven persons, or such number as were to be elected, having the highest number of votes given for common councilmen, and also such person or persons having the highest number of votes cast for the respective offices of Director, Clerk or Treasurer of the School Board, as the case may be.

The City Clerk must immediately make out and deliver to such persons on demand, a certificate of election, signed by him and by the President of the Common Council, and authenticated by the Corporate Seal of the City.

Sec. 41. All officers elected under the ordinances of the City of Anchorage, before entering upon the duties of office, must take and subscribe the following oath or affirmation:

“I.....do solemnly swear (or affirm) that I will support the constitution of the United States, and the laws, and the ordinances of the City of Anchorage, Territory of Alaska, and that I will faithfully and honestly perform the duties of the office of.....So Help Me God.”

Sec. 42. In the event that any member of the Common Council shall for a period of ninety days continuously fail or neglect to attend the meeting of the council without having been granted leave by the council, and said council may declare a vacancy of the office held by said person and the same shall be filled by appointment by the Common Council. The person chosen to fill such vacancy holding said office until his successor is elected at the next annual election and has qualified. Provided, that a vacancy may also be created by the written resignation of any member and duly accepted by the Council; and provided further, that a vacancy shall also be declared if a member thereof shall die or if a person elected a member of the Common Council fail or refuse to qualify within thirty days after his election.

Sec. 43. No person whatsoever shall do any electioneering on election day within the polling place or within 100 feet of the same; no person shall interfere with, interrupt, hinder or oppose any voter, while approaching the polling place for the purpose of voting. Whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not

more than \$100.00 or imprisoned in the City Jail not more than ninety days, or both, in the discretion of the Court. It shall be the duty of the judges of election to enforce the provisions of this section.

Sec. 44. Any person who shall make false statements as to his inability to mark his ballot, or any person who shall interfere or attempt to interfere with any voter when marking his ballot, or any person who endeavors to show any voter how he marks or has marked his ballot shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment in the City Jail not more than ninety days, or both, in the discretion of the Court. It shall be the duty of the election judges to enforce the provisions of this section.

Sec. 45. Any person who shall, prior to election, wilfully destroy or spoil or tear down any list posted in accordance with the provisions of this ordinance, and who, during election, shall wilfully tear down the cards of instruction or specimen ballot posted for the instruction of voters or shall during the election wilfully destroy any of the supplies or conveniences furnished to enable voters to prepare ballots, or who wilfully hinder or obstruct or interfere with the voting of others, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$100.00, or by imprisonment in the City

Jail not more than ninety days, or both, in the discretion of the Court.

Sec. 46. Any person who shall take from the polling place any official ballot or substitute for them or any of them any spurious ballot or ballots, or make, use, circulate or cause to be made, used or circulated for any such ballots any paper printed in imitation or resemblance thereof, or shall wilfully destroy, deface or spoil any ballot, or who shall wilfully interfere with or delay the delivery of any ballot, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$100.00 or by imprisonment in the City Jail not exceeding ninety days, or both, in the discretion of the Court.

Sec. 47. Any public or election officer, upon a duty is imposed by this ordinance, who shall wilfully neglect to perform, or who shall wilfully perform such duty in a way as to hinder or obstruct the object and purpose of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding \$100.00 or by imprisonment in the City Jail not exceeding ninety days or both, in the discretion of the Court.

Sec. 48. The Municipal Magistrate shall have jurisdiction of all violations of the provisions of this ordinance. This ordinance shall take effect and be in force from and after the date of its passage and approval.

Passed and approved by the Common Council of the City of Anchorage, Alaska, this 23rd day of February, 1921.

[Corporate Seal]

/s/ LEOPOLD DAVID,

President of the Council and
Ex-officio Mayor.

Attest:

M. J. CONROY,
Clerk.

CERTIFICATE

United States of America,
Territory of Alaska—ss.

I, the undersigned, Acting City Clerk of the City of Anchorage, do hereby certify that the foregoing copy of Ordinance No. 17 is a true, full, and correct copy of the original of such Ordinance, the original of which is now on file in the City of Anchorage Code of Ordinances; and that by law I am authorized to make this certification.

In Witness Whereof I have hereunto set my hand and the official seal of the City of Anchorage, this 5th day of August, 1947.

/s/ THOMAS E. REILLY,
Acting City Clerk.

[Endorsed]: Filed in the District Court, Territory of Alaska, Third Division, August 6, 1947. M. E. S. Brunelle, Clerk; by /s/ Julia W. Whitaker, Deputy.

[Title of District Court and Cause.]

DEFENDANTS' PRAECIPE

To the Clerk of the District Court, Territory of
Alaska, Third Division:

— You will please make, certify and transmit to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, in addition to the items listed in Plaintiff's Praecipe, a true copy of the following indicated portions of the record in the above entitled cause, as the transcript to be used on appeal, to wit:

1. Ordinance No. 17 of the City of Anchorage.
An Ordinance providing for General and Special Elections in the City of Anchorage, Territory of Alaska.
2. This Praecipe.

Dated at Anchorage the 28th day of July, 1947.

/s/ E. L. ARNELL,
Attorney for Defendants.

Service acknowledged by receipt of a copy of the above and foregoing Praecipe this 28th day of July, 1947.

/s/ RAYMOND E. PLUMMER,
United States Attorney.

[Endorsed]: Filed July 28, 1947.

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD

United States of America,
Territory of Alaska, Third Division—ss.

I, M. E. S. Brunelle, Clerk of the District Court for the Territory of Alaska, Third Division, do hereby certify that the foregoing and hereto annexed 42 pages, numbered from 1 to 42, inclusive, are a full, true and correct transcript of the records and files of the proceedings in the above entitled cause as the same appears on the records and files in my office; that this transcript is made in accordance with the praecipies filed in my office on the 23rd day of July, 1947 and on the 28th day of July, 1947; that the foregoing transcript has been prepared, examined and certified by me, and that the costs thereof, amounting to \$6.75 have been paid by E. L. Arnell, counsel for the appellees herein.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Court this 14th day of August, 1947.

M. E. S. BRUNELLE,
Clerk.

By /s/ IOLA FOWLER,
Chief Deputy.

[Endorsed]: No. 11708. United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Francis C. Bowden, John E. Hoekzema, Edward G. Barber, L. McGee, Chris Poulsen, Fred W. Mayer, Dr. F. N. (Doc) Dorsey, Robert (Bob) Baker and Anton Anderson, Appellees. Transcript of Record. Upon Appeal from the District Court for the Territory of Alaska, Third Division.

Filed August 16, 1947.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit
No. 11708

UNITED STATES OF AMERICA,
Appellant,
vs.

FRANCIS C. BOWDEN, et al.,
Appellees.

NOTICE OF POINTS TO BE RELIED UPON,
UPON THE APPEAL, AND DESIGNA-
TION OF PARTS OF THE RECORD TO
BE PRINTED

To the Clerk of the United States Circuit Court
of Appeals, for the Ninth Circuit:

The appellant in the above entitled action intends

to rely upon his appeal upon the points designated in the assignments of error appearing in the transcript of record, and hereby adopts such assignments of error.

The appellant in the above entitled action desires the entire record contained in the certified transcript of record prepared by the Clerk of the District Court, Third Division, Territory of Alaska, to be printed in its entirety.

Dated: At Anchorage, Alaska, this 2nd day of September, 1947.

/s/ RAYMOND E. PLUMMER,
United States Attorney,
Attorney for Plaintiff-Appellant.

Service acknowledged and admitted by receipt of a copy this 2nd day of September, 1947.

/s/ E. L. ARNELL,
Attorney for Appellees.

[Endorsed]: Filed Sept. 4, 1947.

